

U S Army Corps
of Engineers
Huntington District

Public Notice

In reply refer to Public Notice No. 2006-2278-BCR Issuance Date:

March 1, 2007

Stream: Moccasin Hollow

Closing Date:

March 30, 2007

Please address all comments and inquiries to:

U.S. Army USACE of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (USACE) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the USACE Regulatory Program.

SECTION 10: The USACE is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The USACE is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the USACE request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Catenary Coal Company
5914 Cabin Creek Road
Eskdale, West Virginia 25075

LOCATION: The proposed project would be constructed approximately 3.0 miles southwest of Eskdale in the Cabin Creek District of Kanawha County and Sherman District of Boone County, West Virginia. The project area can be found at latitude 38°03'36" and longitude 81°29'48" on the Eskdale USGS quadrangle. The proposed project would result in disturbances to 1st Left, 2nd Left, and 1st Right of 2nd Left Unnamed Tributaries of Moccasin Hollow and Moccasin Hollow of the Left Fork of White Oak Creek. All of these unnamed tributaries exhibit surface water connections to Moccasin Hollow of the Left Fork of White Oak Creek. The Left Fork of White Oak Creek flows into White Oak Creek and ultimately flows into the Big Coal River, a navigable (Section 10) water of the U.S.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place dredged and fill material into 1,668 linear feet (0.28 acre) of perennial stream channels, 560 linear feet (0.03 acre) of intermittent stream channels and 40 linear feet (0.004 acre) of ephemeral stream channel in conjunction with the construction, operation and reclamation of the Moccasin Hollow Deep Mine [pending approval under Surface Mining Control and Reclamation Act (SMCRA) permit U-3005-06]. Project components would include a temporary disposal site (Valley Fill No. 1) and an associated sediment pond (Pond No. 1) and two access road crossings. Additional indirect impacts to 242 linear feet (0.04 acre) of perennial stream channel would be associated with the pond pool (232 linear feet/0.04 acre) and sediment transport area between the temporary disposal site and the pond pool (10 linear feet/0.002 acre). Details regarding these proposed activities are listed in the table below.

Proposed Activity	Stream Location	Quantity of Dredged/Fill Material Below Ordinary High Water Mark (cubic yards)	Perennial Stream Channel Impacts		Intermittent Stream Channel Impacts		Ephemeral Stream Channel Impacts	
			(Linear Feet)	(Acres)	(Linear Feet)	(Acres)	(Linear Feet)	(Acres)
Valley Fill No. 1	Moccasin Hollow	230.08	1630	0.2776	--	--	--	--
	1 st Left Unnamed Tributary of Moccasin Hollow	8.59	--	--	245	0.0142	--	--
	2 nd Left Unnamed Tributary of Moccasin Hollow	13.08			280	0.0177		
Pond No. 1 Embankment	Moccasin Hollow	4.57	38	0.0058	--	--	--	--
Pond No. 1 Pool	Moccasin Hollow	--	232	0.0430	--	--	--	--
Sediment Transport Area	Moccasin Hollow	--	10	0.0018	--	--	--	--
Access Road Crossing No. 1	2 nd Left Unnamed Tributary of Moccasin Hollow	1.19	--	--	35	0.0021	--	--
Access Road Crossing No. 2	1 st Right Unnamed Tributary 2 nd Left Unnamed Tributary of Moccasin Hollow	3.27	--	--	--	--	40	0.0042
TOTAL DIRECT FILL IMPACTS		260.78	1,668	0.2834	560	0.0340	40	0.0042
TOTAL INDIRECT IMPACTS		--	242	0.0448	--	--	--	--

Including proposed direct and indirect impacts, the project would include a total of 2,510 linear feet of affected stream channels. The purpose of the proposed project is construct attendant and associated features (i.e. sediment control structures, overburden disposal, etc.) to facilitate efficient extraction of coal reserves in the SMRCA permitted area. Plans for the proposed facility are attached to this public notice.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the overall project purpose. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the overall project purpose.

MITIGATION PLAN: The applicant has not submitted a Compensatory Mitigation Plan (CMP) to compensate for temporary impacts to waters of the U.S. that are regulated by the USACE.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the WVDEP.

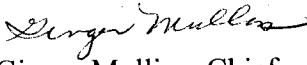
HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the SHPO for their review. Additional comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: Two federally listed endangered species, the Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may occur within the project area. A mist-net and portal survey was conducted during the 2006 roosting season. The U.S. Fish and Wildlife Service (USFWS) concluded that no federally-listed endangered or threatened species are expected to be impacted by the project. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the ESA Species Act of 1972 (as amended).

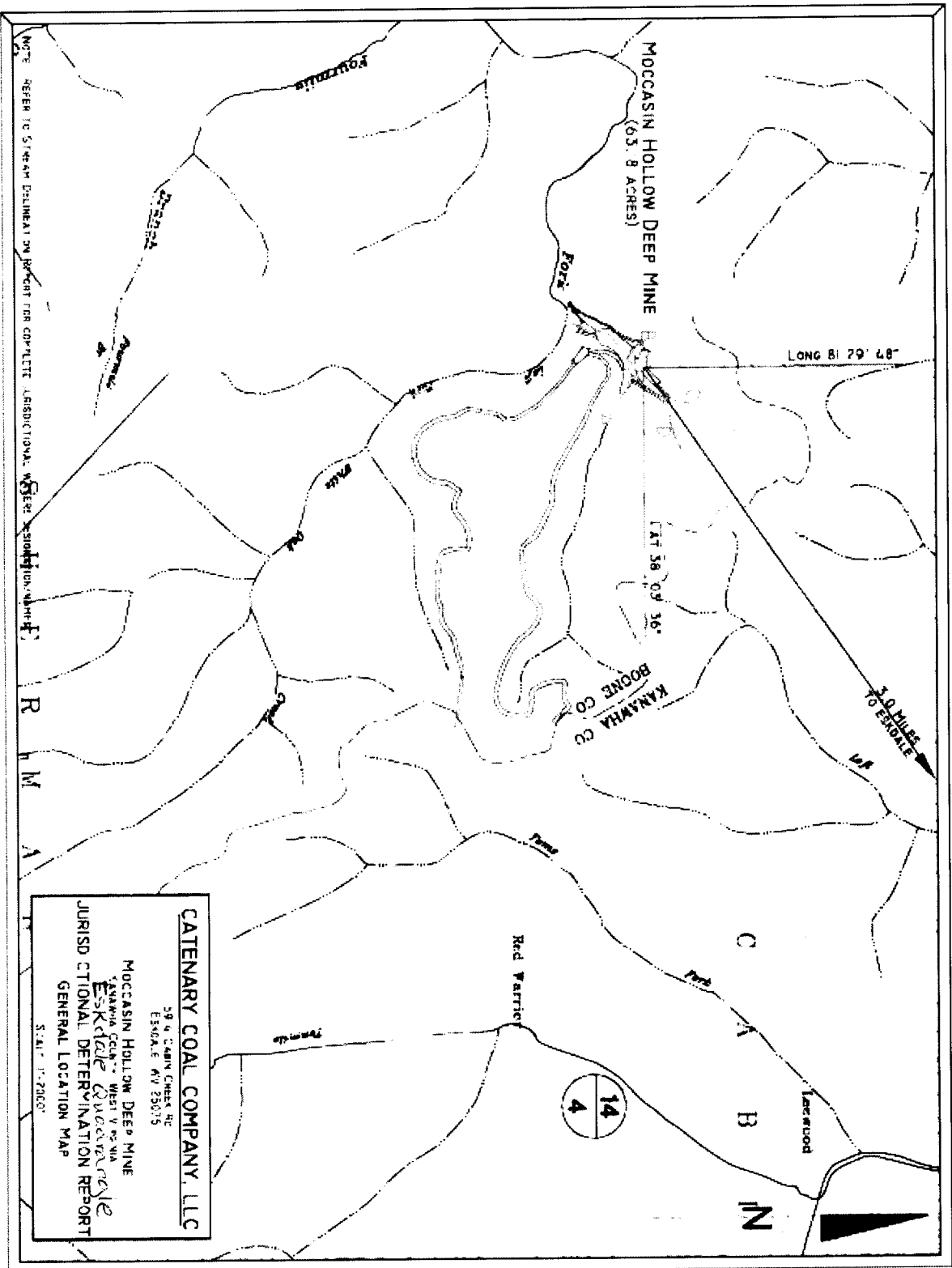
PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest, which may be adversely affected, and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the USACE, and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

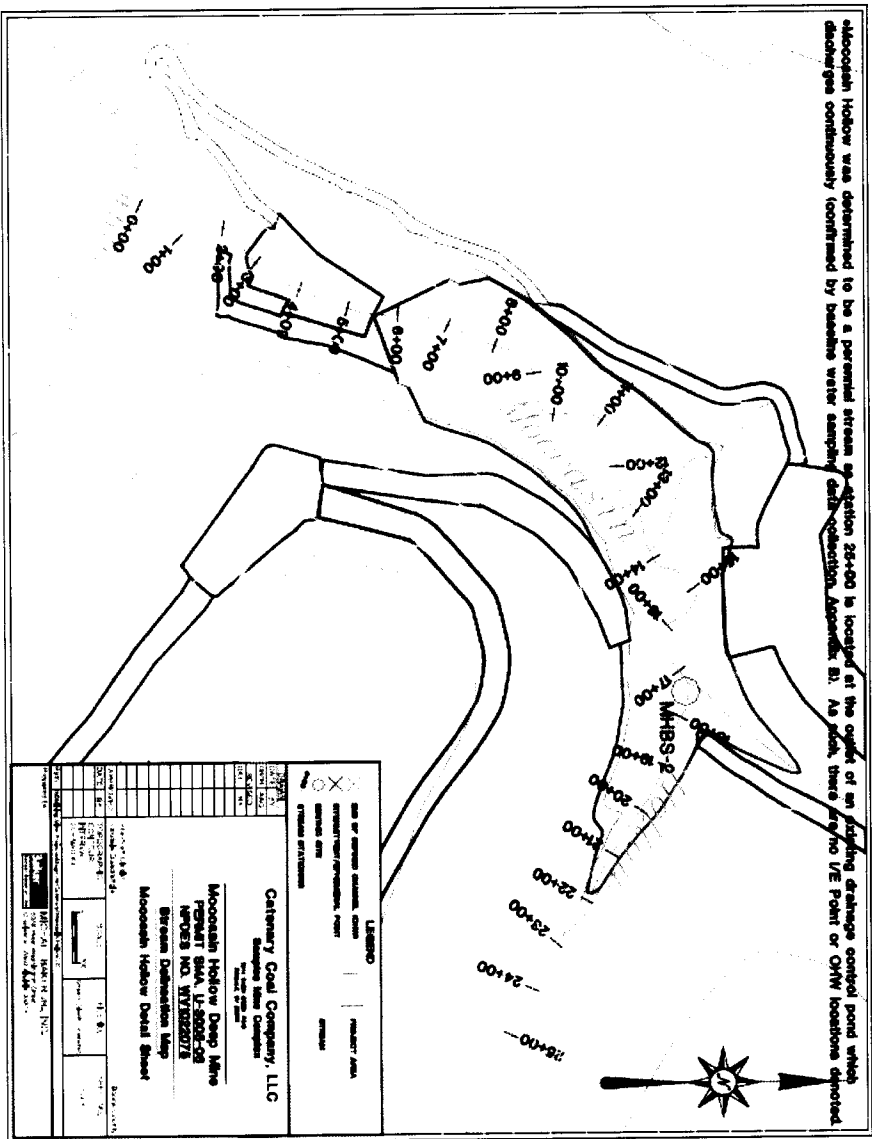
SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the USACE to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mrs. Teresa Spagna, Project Manager, South Regulatory Section, CELRH-OR-FS, USACE Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning the above, please contact Mrs. Teresa Spagna of the South Regulatory Section at (304) 399-5710.

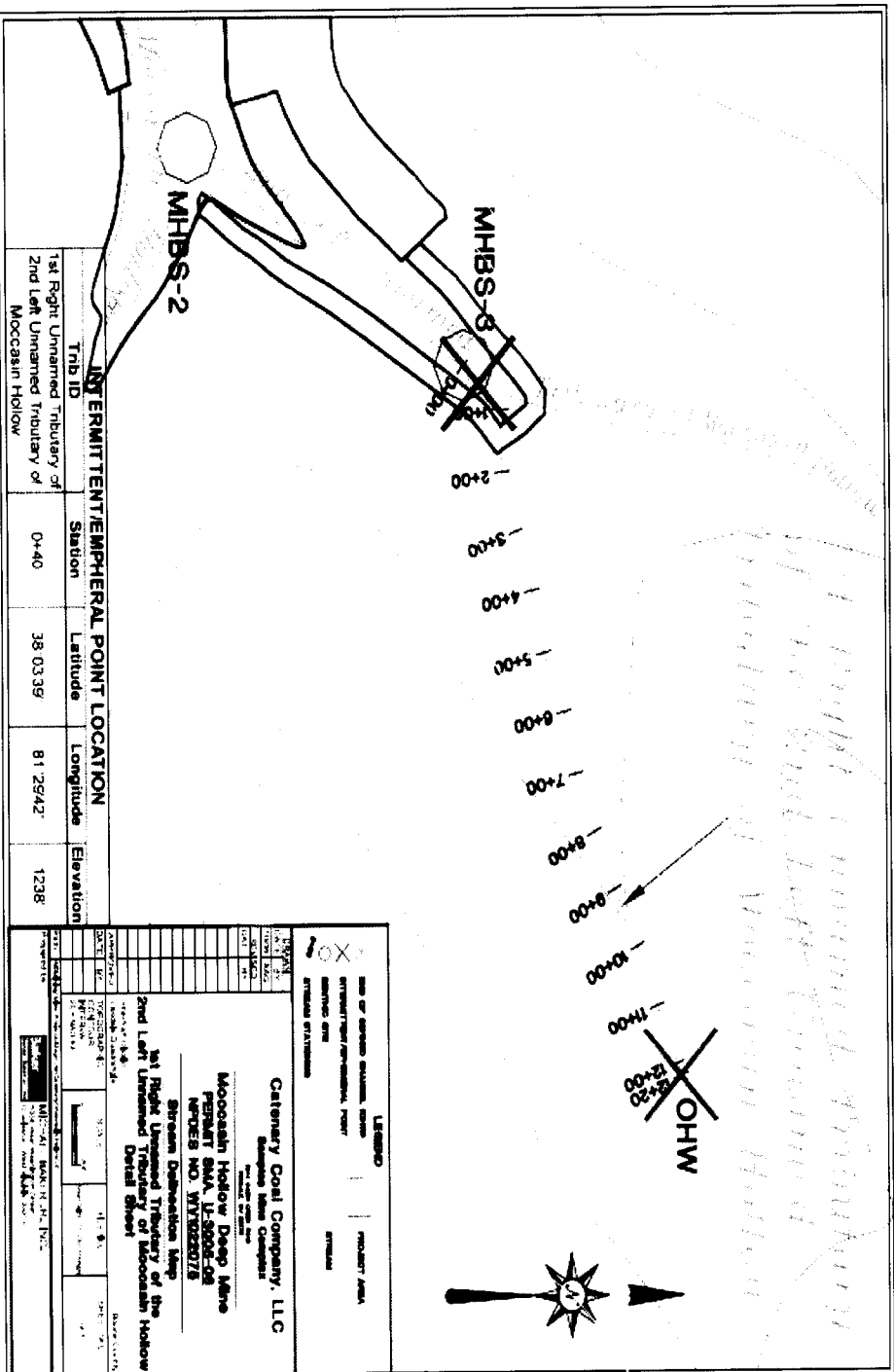

Ginger Mullins, Chief
Regulatory Branch

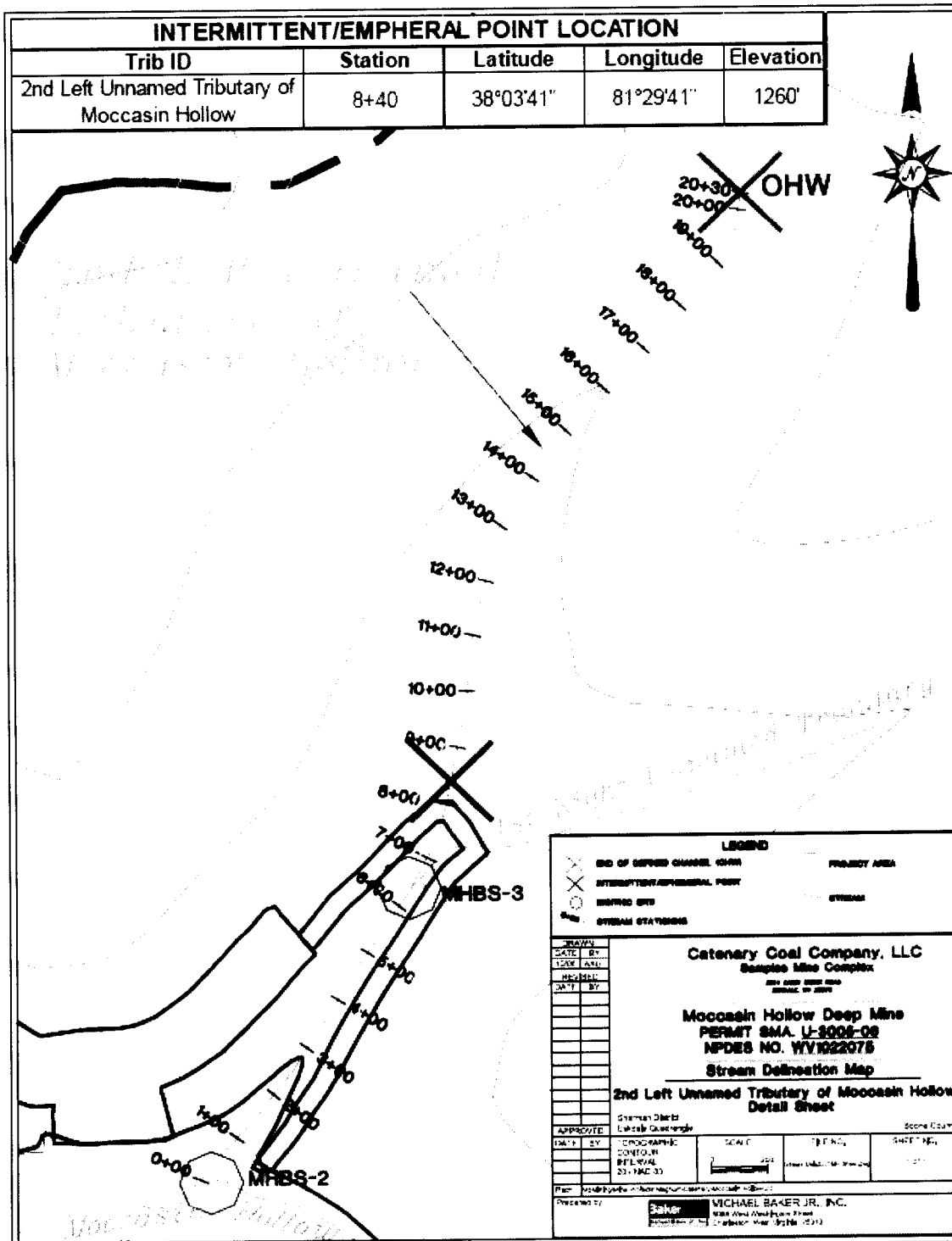
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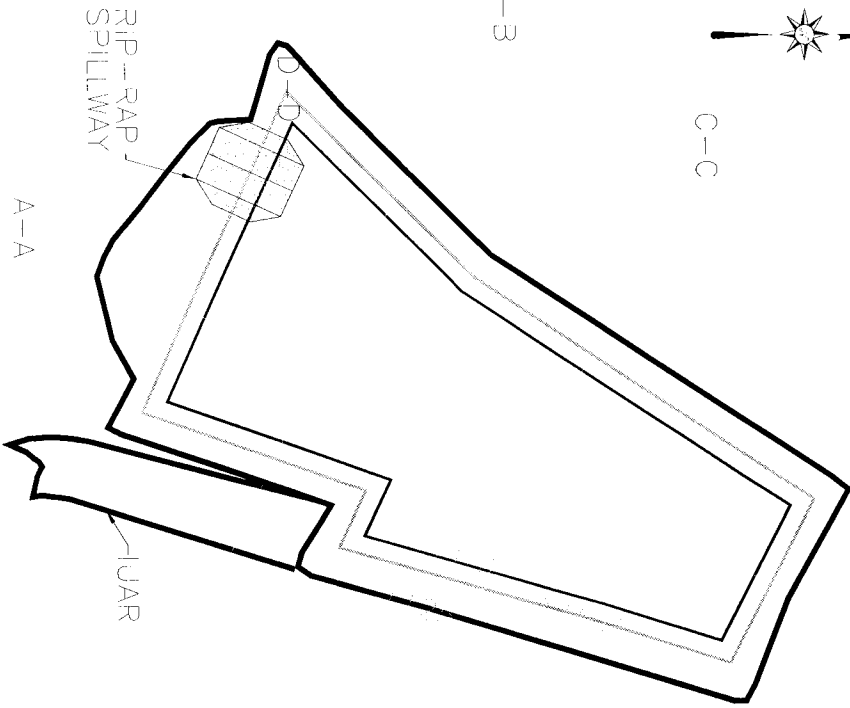




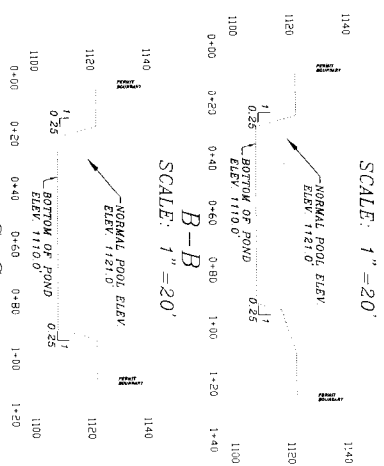
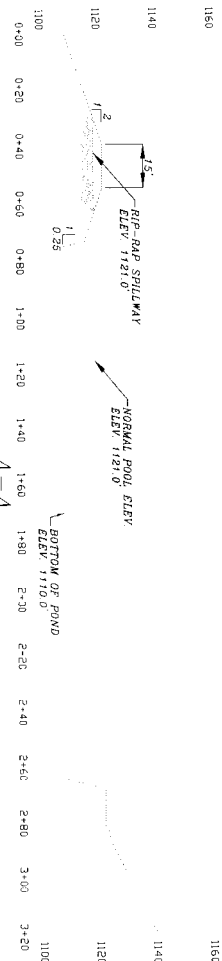
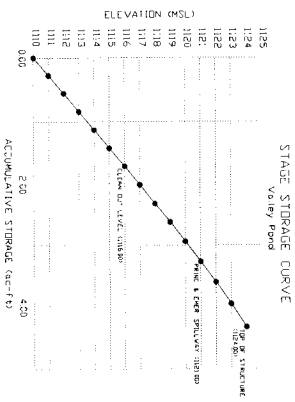
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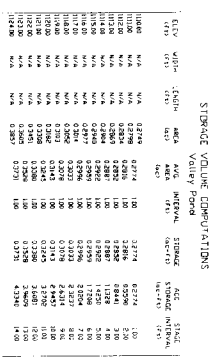



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PLAN
SCALE: 1"=20'



D-D SPILLWAY
SCALE: 1"=20'



LEGEND

EXISTING GROUND
EXCAVATION

60% CLEANOUT ELEVATION
NORMAL POOL ELEVATION

POND NO. 1
PLAN, PROFILE & SECTIONS
SHEET NO. 1 OF 1

MOCCASIN HOLLOW DEEP MINE

PERMIT NO. PENDING
CATENARY COAL COMPANY, LLC
10000 W. 260TH ST. PEBBLE BEACH, CA 94065

SUMMIT ENGINEERING, INC.

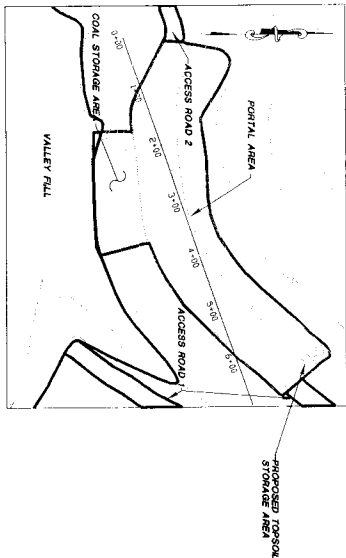
1. THE UNDERSIGNED HEREBY CERTIFY THAT THIS MAP IS CORRECT AND SHOWS ALL THE INFORMATION TO THE BEST OF MY KNOWLEDGE AND BELIEF REQUIRED BY THE SURFACE MINING LAWS OF THIS STATE

Source: *Author's calculations*.

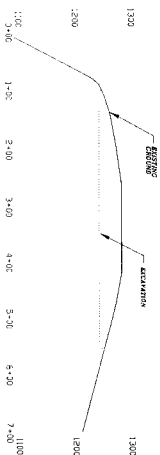
ACKNOWLEDGED BEFORE ME A NOTARY PUBLIC,
THIS _____ DAY OF _____, 20____.

FILENAME: W4-POND	SCALE: 1" = 20'
PROJECT NO. PROJECT_NO	DATE: 11/15/05
	PLOT DATE: 11/19/05

829.



PORTAL ENTRY PROFILE "A"-"A"
SCALE: 1"=100'



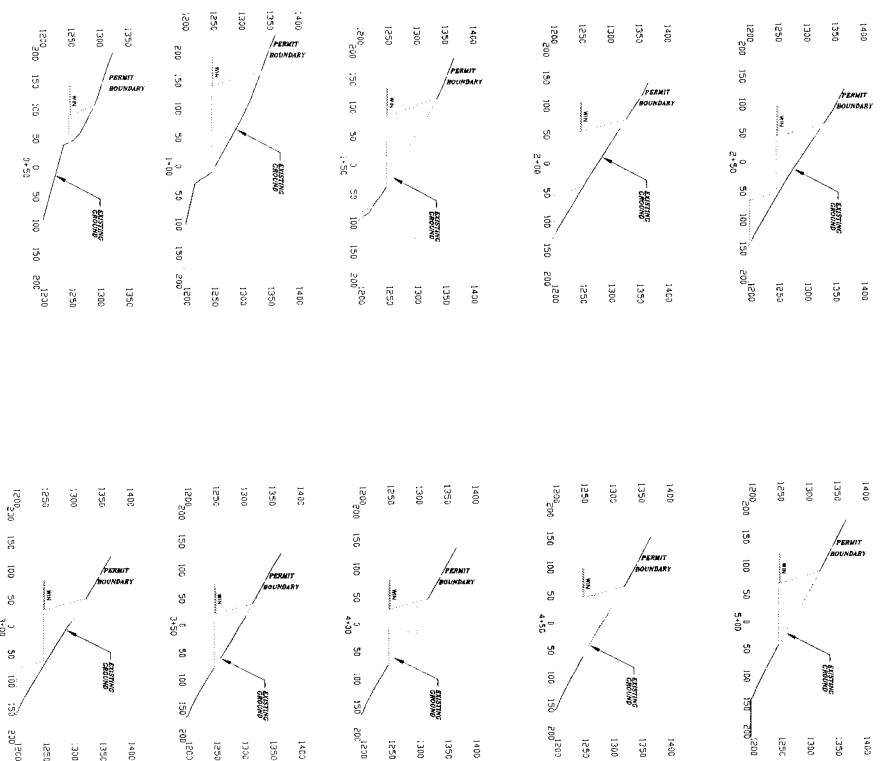
LEGEND

- EXCAVATION
- ORIGINAL GROUND
- REGRADE
- WIN
- MINIFIED COAL SEAM
- PERMIT BOUNDARY
- CONVEYANCE CHANNEL 'B'
- PERMIT AREA
- WATER REMOVAL AREA

NOTE: SEE TEXT FOR 11-DRAWINGS

NO MATERIAL REQUIRING SPECIAL HANDLING WILL BE ENCOUNTERED
ALL COAL IN FACE-UP WILL BE REMOVED FROM SITE AND PROCESSED

PORTAL ENTRY CROSS SECTIONS
SCALE: 1"=100'



DATE	DESCRIPTION OF REVISION	REVISION	DATE
1-1-06	SEA CONNECTIONS	SEA CONNECTIONS	1-1-06
	ADD DATE	ADD DATE	
	DATE OF SEA PROVISION	DATE OF SEA PROVISION	

CATERMAY COAL COMPANY, LLC 3914 CORY CREEK ROAD MORGANTHAU HOLLOW DEEP MINE PORTAL AREA SITE PLAN SDA # U-3005-06	SUBMITTING ENGINEERING CHESTER, WV PROJECT NO. SHEET 1	SCALE: AS SHOWN DATE: 09/20/05 BY: [Signature] CHECKED: [Signature] APPROVED: [Signature]
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